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EXAMINER

HOYE, MICHAEL W

ART UNIT	PAPER NUMBER
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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/733,824	Applicant(s) GUREVICH ET AL.	
	Examiner Michael W. Hoyer	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed on April 30, 2007 have been fully considered but they are not persuasive.

Regarding independent claims 1, 8 and 17, the Applicants argue on page 8 of the Remarks that, "Claims 1, 8 and 17...have been amended to recite: "wherein the step of matching the recorded time and channel comprises positioning the broadcast to correspond to the recorded time and channel, extracting an available offer associated with the recorded time of the recorded channel, wherein the available offer is either a pre-recorded audio segment or a pre-recorded video segment;" or similar language. Ellis does not disclose or describe at least this quoted claim feature."

More specifically, the Applicants argue on pages 8-9 that, "Ellis does not teach the ability of a system to extract segments of programs corresponding to a user's selection...Under Ellis, a user watching music videos on television can use the activate button of Ellis to record the entire music video program, which is likely 30 or 60 minutes in length. In sharp contrast to this, and a required element of the present invention, a user interested in the current song being performed in the music video being broadcast can use the activate button of the current invention to have a copy of this song e-mailed to the user (or distributed to the user through any number of other distribution methods). Ellis does not teach this patentable feature."

In response, the Examiner respectfully disagrees with the Applicants because given the broadest reasonable interpretation of the claims, the Ellis et al reference clearly discloses the

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amended claim language including, "...extracting an available offer associated with the recorded time of the recorded channel, wherein the available offer is either a pre-recorded audio segment or pre-recorded video segment", or similar language, as met by paragraph [0133] of Ellis, where Ellis specifically teaches that, "In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29." And, paragraph [0134] discloses recording a program that the user is watching or highlighting a listing and indicating a desire to record the listed program. Also see paragraph [0097], where recorded videos may be distributed by distribution equipment 21 to user television equipment 22 as a video signal, or in digital format such as MPEG-2 files or as an MPEG-2 data stream and programming may be played back on-demand by the user. Therefore, the Ellis reference clearly discloses or teaches the ability of a system to extract segments of programs corresponding to a user's selection.

In response to Applicants' argument that the references fail to show certain features of the Applicants' invention, it is noted that the features upon which the Applicants rely (i.e., "a user interested in the current song being performed in the music video being broadcast can use the activate button of the current invention to have a copy of this song e-mailed to the user") are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Regarding the obviousness rejection of claims 4, 6, 7 and 21, the Applicants argue on pages 9-10 and more specifically on page 10 that, "Combining Ellis with what was known in the art at the time of the invention produces a system of recording a broadcast after a request is received to record. This is very different from extracting a pre-recorded audio or pre-recorded video segment offered in a broadcast based on a user selection made while viewing the broadcast through a video viewing system."

In response, the Examiner respectfully disagrees with the Applicants because, as stated above for independent claims 1, 8 and 27, Ellis discloses in paragraph [0133] that, "In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29." And, paragraph [0134] discloses recording a program that the user is watching or highlighting a listing and indicating a desire to record the listed program. Also see paragraph [0097], where recorded videos may be distributed by distribution equipment 21 to user television equipment 22 as a video signal, or in digital format such as MPEG-2 files or as an MPEG-2 data stream and programming may be played back on-demand by the user. Therefore, the Ellis reference clearly discloses or teaches extracting a pre-recorded audio or pre-recorded video segment offered in a broadcast based on a user selection made while viewing the broadcast through a video viewing system.

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Further, regarding claim 4, the Applicants argue on page 10 that the Examiner, “takes Official Notice that it is well-known in the art to have the ability to “send an encrypted credit or debit card account number.” (emphasis added). Respectfully, claim 4 describes a method for recording a credit or debit card number along with the time and channel being recorded. This allows different credit or debit cards to be associated with different recordings. The inventive feature is neither anticipated by Ellis, nor obvious in view of Ellis.”

In response the Examiner respectfully disagrees with the Applicants because the remarks/arguments made by the Applicants above are not a proper quotation of the Examiner’s previous rejection of claim 4, which stated on page 12 of the Office Action that:

As to claim 4, the Ellis et al reference discloses a method for automatically debiting the user’s account (see pg. 12, ¶ [0136]). Ellis et al does not does not explicitly disclose that “an encrypted credit card or debit card number is recorded along with the time and channel viewed”. However, the Examiner takes Official Notice that it is notoriously well known in the art of audio/video distribution and purchasing systems to have the ability to send an encrypted credit or debit card account number along with a time and channel viewed for an order that is to be purchased through the system for the advantage of allowing a user to purchase audio or video data through by using an account or their own choice, and whereby the user’s personal account information is protected for their own security through encryption methods for the advantage of preventing hackers or other individuals from stealing the user’s personal account information. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have an encrypted credit card or debit card number recorded along with the time and channel viewed for the advantages given above.

The Applicants appear to be arguing dependent claim 4 in view of the arguments made above for independent claim 1 and do not appear to have properly traversed the Examiner’s Official Notice rejection in dependent claim 4. Therefore, the rejection has been maintained and

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the Examiner respectfully requests clarification as to what claim language the Applicants believe is patently distinguishable over the prior art and rejection of record.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5 and 8-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al (US 2003/0149988 A1), cited by the Examiner.

As to claim 1, note the Ellis et al reference which discloses the claimed method of, “receiving an order for pre-recorded audio segment or a pre-recorded video segment offered in a broadcast based on a user selection made while viewing the broadcast through a video viewing system,” as met by the user TV equipment 22, including a set-top box 28, a television 36, and a remote control 40 (see Figs. 2a-2e and/or television 36 in Fig. 7, and ¶’s [0058]-[0060], [0064]-[0065], [0097]-[0098] and [0133]), which may receive an order for audio or video data offered in a broadcast/distribution of programming and program data, where a user highlights a program, such as “I Love Lucy” (Fig. 11a), and selects the “record” button on the remote control 40 (see Figs. 7, 8 and 14a-b, and pgs. 11-12, ¶ [0133]-[0134]), or by the user highlighting a pay-per-view program listing and pressing “order” or another suitable key on the remote control 40 (see Fig. 15a and pg. 12, ¶ [0138]), or specifically at the end of ¶ [0133] and the top of page 12, where

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users may indicate a desire to record a program or group of programs on demand by, for example, pressing a "RECORD" key on remote control 40 while watching a program (see pgs. 11-12, ¶'s [0133] - [0134] and Fig. 14a). Furthermore, paragraph [0133] of Ellis, specifically teaches that, "In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29." The claimed, "wherein the step of receiving the order comprises recording a time and channel being viewed by the user," is met by the user indicating a desire to order or record a program, where a record request is transmitted to the appropriate media server, and the record request or order may include information related to the program and the user including the time and channel being viewed by the user (see page 6, ¶ [0087], pages 11-12, ¶'s [0133] - [0134] and page 12, ¶ [0142]). The claimed "transmitting the order from the video viewing to a data storage device" is met by the set-top box 28 transmitting the request or order to the remote media server 24, which comprises a server 24 (and 25) and data storage 15 (see Figs. 7 and 2a-2e, and pg. 7, ¶ [0091] for example). The claimed, "matching the recorded time and channel to identify desired pre-recorded audio or pre-recorded video segment," is met by the user indicating a desire to order or record as program, where the set-top box 28 transmits the information or a record request to the head-end and server or appropriate media server, and the information or record request (order) may include information related to the program and the user, including the time and channel being viewed by the user (see pg. 6, ¶

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[0087], pg. 7, ¶ [0091], pgs. 11-12, ¶'s [0133] - [0134] and pg. 12, ¶ [0142]). The claimed “wherein the step of matching the recorded time and channel comprises positioning the broadcast to correspond to the recorded time and channel, extracting an available offer associated with the recorded time of the recorded channel, wherein the available offer is either a pre-recorded audio segment or pre-recorded video segment”, is met by paragraph [0133] as described above, where Ellis specifically teaches that, “In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29.” And, paragraph [0134] discloses recording a program that the user is watching or highlighting a listing and indicating a desire to record the listed program. Also see paragraph [0097], where recorded videos may be distributed by distribution equipment 21 to user television equipment 22 as a video signal, or in digital format such as MPEG-2 files or as an MPEG-2 data stream and programming may be played back on-demand by the user. The claimed “transmitting the requested pre-recorded audio or pre-recorded video segment to the user” is met by the programs or videos may be distributed by distribution equipment 21 to user television equipment 22 in various formats, such as MPEG-2 files, an MPEG-2 data stream, or other formats (see pg. 7, ¶ [0097] and pg. 11, ¶ [0133] as described above).

As to claim 3, the claimed “wherein a user identification number is recorded along with the time and channel viewed” is met as previously described above in claim 1 where the set-top

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box 28 transmits the information to the head-end and server, where the information includes time(s), channel viewed, a user number or identification, and other information (see pg. 6, ¶ [0087]).

As to claim 5, the Ellis et al reference discloses that the claimed “order” may be added to a communication between the video viewing system (22) and a server (24) regulating the broadcast received via a communication medium (20) (see pgs. 8-9, ¶ [0105]-[0107] and Figures 2a-2e, 7 and 9).

As to claim 8, note the Ellis et al reference which discloses a video viewing system (user TV equipment 22, including a set-top box 28, a television 36, and a remote control 40, see Figs. 2a-2e and/or television 36 in Fig. 7, and ¶’s [0058]-[0060], [0064]-[0065], [0097]-[0098] and [0133]), for displaying video programs (television 36, Fig. 7) and receiving orders for pre-recorded audio or pre-recorded video segments offered in a broadcast/distribution of programming (or program segments) and program data (remote control 40, see Figs. 7 and 8), where a user highlights a program, such as “I Love Lucy” (Fig. 11a), and selects the “record” button on the remote control 40 (see Figs. 7, 8 and 14a-b, and pgs. 11-12, ¶ [0133]-[0134]), or by the user highlighting a pay-per-view program listing and pressing “order” or another suitable key on the remote control 40 (see Fig. 15a and pg. 12, ¶ [0138]), or specifically at the end of ¶ [0133] and the top of page 12, where users may indicate a desire to record a program or group of programs on demand by, for example, pressing a “RECORD” key on remote control 40 while watching a program (see pgs. 11-12, ¶’s [0133] - [0134] and Fig. 14a). Furthermore, paragraph [0133] of Ellis, specifically teaches that, “In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program

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guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29." The claimed, "wherein the system for receiving orders includes a means for recording a time and channel being viewed by the user when ordering," is met by the user indicating a desire to order or record as program, where a record request is transmitted to the appropriate media server, and the record request or order may include information related to the program and the user including the time and channel being viewed by the user (see page 6, ¶ [0087], pages 11-12, ¶'s [0133] - [0134] and page 12, ¶ [0142]). The claimed, "server for receiving and processing orders for pre-recorded audio or pre-recorded video segments," is met by server 24 (Figs. 2a-2e), and the claimed, "means for matching the recorded time and channel to identify the desired pre-recorded audio or pre-recorded video segments," is met by the user indicating a desire to order or record as program, where the set-top box 28 transmits the information or a record request to the head-end and server or appropriate media server, and the information or record request (order) may include information related to the program and the user, including the time and channel being viewed by the user (see pg. 6, ¶ [0087], pg. 7, ¶ [0091], pgs. 11-12, ¶'s [0133] - [0134] and pg. 12, ¶ [0142]), in order to retrieve and transmit the requested audio or video data to the user. The claimed "wherein the means for matching the recorded time and channel comprises to identify the desired segments includes positioning the broadcast to correspond to the recorded time and channel, extracting an available offer associated with the recorded time of the recorded channel, wherein the available offer is either a pre-recorded audio segment or pre-recorded video

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segment”, is met by paragraph [0133] as described above, where Ellis specifically teaches that, “In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29.” And, paragraph [0134] discloses recording a program that the user is watching or highlighting a listing and indicating a desire to record the listed program. Also see paragraph [0097], where recorded videos may be distributed by distribution equipment 21 to user television equipment 22 as a video signal, or in digital format such as MPEG-2 files or as an MPEG-2 data stream and programming may be played back on-demand by the user. The claimed “communications medium between the video viewing system and the server” and “link between the server and the viewer...” is met by the video and data input 26 in Fig. 7 (pg. 8, ¶ [0098]) or communications path 20 (see Figs. 2a – 2d), and the claimed “delivery of the pre-recorded audio or pre-recorded video segment in a portable electronic form” is met by the programs or videos may be distributed by distribution equipment 21 to user television equipment 22 in various formats, such as MPEG-2 files, an MPEG-2 data stream, or other formats (see pg. 7, ¶ [0097] and pg. 11, ¶ [0133]).

As to claim 9, the Ellis et al reference discloses the claimed “set top box” (see 28, Fig. 7) and “a video viewing media” (see television 36).

As to claim 10, the claimed “video viewing system includes a cursor control which allows a user to signal selection by placing the cursor in a specific area, or “hot” area, of the

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viewing medium's screen" is met by a user positioning highlight region, such as 151 (see Figs. 10 and 11a-c), over a desired program guide option related to program listings by manipulating the user input device 46 (see pg. 10, ¶ [0121], [0123] and [0116]).

As to claim 11, the claimed "video viewing system includes a remote control with an "activate" button, which signals selection of an audio or video data program" is met by the user pressing a "RECORD" key on remote control 40 after highlighting a programs listing (see Fig. 8, pg. 11, end of ¶ [0133] and [0134]) or by the user highlighting a pay-per-view program listing and pressing the "order" or other suitable key on remote control 40 (see pg. 12, ¶ [0138]).

As to claim 12, the Ellis et al reference discloses that the claimed "order for a pre-recorded segment" may be added to a communication between the video viewing system (22) and a server (24) regulating the broadcast received via a communication medium (20) (see pgs. 8-9, ¶ [0105]-[0107], pg. 11, ¶ [0133] and Figures 2a-2e, 7 and 9).

As to claim 13, Ellis et al discloses the claimed "more than one server and mass data storage unit service the video viewing system" as met by remote media server 24, storage 15, Internet service system 61, and program guide server, which are all a part of the distribution facility 16 (Fig. 2d).

As to claim 14, the claimed "requested pre-recorded segment is transmitted via a broadcast system to the user's video viewing system" is met by the requested data being transmitted via a communications paths 20 (see Figs. 2a-2d and 9), which may include, for example, a satellite link, a telephone network link, a cable or fiber optic link, a microwave link, an Internet link, a data-over-cable service interface specification (DOCSIS) link, a combination

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of links, or any other suitable communications link (see pg. 4, ¶ [0064]-[0065]) to the user television equipment 22/set top box 28 (pg. 5, ¶ [0075], also see pg. 11, ¶ [0133]).

As to claim 15, the claimed “video viewing system includes an audio or video file player that can download the pre-recorded audio or pre-recorded video segment from a port” is met by digital storage device 31, which can be an external device connected to set-top box 28 via an output port and appropriate interface (see Fig. 7 and pg. 8, ¶ [0102]). The digital storage device 31 may be a DVD player capable of handling recordable DVD disks, or may be various other players and storage devices (pg. 8, ¶ [0101]). The video viewing system (user television equipment 32) also may include a secondary storage device 32 (see pg. 8, ¶ [0098], [0100] and [0104]).

As to claim 16, the claimed “video viewing system includes a removable memory media that stores the pre-recorded audio or pre-recorded video segment” is met by digital storage device 31 and/or secondary storage device 32, as previously described above in claim 15, which may include DVD disks or various other removable memory media.

As to claim 17, note the Ellis et al reference which discloses the claimed “machine-readable storage medium...” as met by memory 63, which may be any memory or other storage device, such as a random access memory (RAM), read only memory (ROM), flash memory, a hard disk drive, a combination of such devices, etc., that has stored program guide application instructions and other data for use by control circuitry 42 for execution by the user television equipment 22, such as set-top box 28 (see Figures 7 and 9, and pg. 9, ¶ [0112]-[0114]), which performs the claimed method of “receiving an order for pre-recorded audio or pre-recorded video segment offered in a video broadcast based on a user selection made while viewing the broadcast

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through a video viewing system,” as met by the user TV equipment 22, including a set-top box 28, a television 36, and a remote control 40 (see Figs. 2a-2e and/or television 36 in Fig. 7, and ¶’s [0058]-[0060], [0064]-[0065], [0097]-[0098] and [0133]), which may receive an order for audio or video data offered in a broadcast/distribution of programming and program data, where a user highlights a program, such as “I Love Lucy” (Fig. 11a), and selects the “record” button on the remote control 40 (see Figs. 7, 8 and 14a-b, and pgs. 11-12, ¶ [0133]-[0134]), or by the user highlighting a pay-per-view program listing and pressing “order” or another suitable key on the remote control 40 (see Fig. 15a and pg. 12, ¶ [0138]), or specifically at the end of ¶ [0133] and the top of page 12, where users may indicate a desire to record a program or group of programs on demand by, for example, pressing a “RECORD” key on remote control 40 while watching a program (see pgs. 11-12, ¶’s [0133] - [0134] and Fig. 14a). Furthermore, paragraph [0133] of Ellis, specifically teaches that, “In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29.” The claimed, “wherein the step of receiving the order comprises recording a time and channel being viewed by the user,” is met by the user indicating a desire to order or record as program, where a record request is transmitted to the appropriate media server, and the record request or order may include information related to the program and the user including the time and channel being viewed by the user (see page 6, ¶ [0087], pages 11-12, ¶’s [0133] - [0134] and page 12, ¶ [0142]). The claimed “transmitting the

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order from the video viewing to a server and data storage device” is met by the set-top box 28 transmitting the request or order to the remote media server 24, which comprises a server 24 (and 25) and data storage 15 (see Figs. 7 and 2a-2e, and pg. 7, ¶ [0091] for example). The claimed, “matching the recorded time and channel to identify the desired pre-recorded audio or pre-recorded video segment,” is met by the user indicating a desire to order or record as program, where the set-top box 28 transmits the information or a record request to the head-end and server or appropriate media server, and the information or record request (order) may include information related to the program and the user, including the time and channel being viewed by the user (see pg. 6, ¶ [0087], pg. 7, ¶ [0091], pgs. 11-12, ¶’s [0133] - [0134] and pg. 12, ¶ [0142]), in order to retrieve and transmit the requested pre-recorded audio or pre-recorded video segment to the user. The claimed “wherein the step of matching the recorded time and channel comprises positioning the broadcast to correspond to the recorded time and channel, extracting an available offer associated with the recorded time of the recorded channel, wherein the available offer is either a pre-recorded audio segment or pre-recorded video segment”, is met by paragraph [0133] as described above, where Ellis specifically teaches that, “In addition to providing the user with the opportunity to access television programming and program guide data in these and other ways, the program guide may provide the user with an opportunity to record programs on demand at remote media server 24 or local media server 29, to view listings or directories of the programs that have been recorded or selected for recording, and to play videos and associated program guide data on demand from remote media server 24 or local media server 29.” And, paragraph [0134] discloses recording a program that the user is watching or highlighting a listing and indicating a desire to record the listed program. Also see paragraph

[0097], where recorded videos may be distributed by distribution equipment 21 to user television equipment 22 as a video signal, or in digital format such as MPEG-2 files or as an MPEG-2 data stream and programming may be played back on-demand by the user. The claimed "transmitting the requested pre-recorded audio [and/] or pre-recorded video segment to the user in a portable electronic form" is met by the programs or videos may be distributed by distribution equipment 21 to user television equipment 22 in various formats, such as MPEG-2 files, an MPEG-2 data stream, or other formats (see pg. 7, ¶ [0097]).

As to claims 19-20, the claims are rejected based on the same arguments made in the rejection of claims 3 and 5 respectively.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 6-7 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al.

As to claim 4, the Ellis et al reference discloses a method for automatically debiting the user's account (see pg. 12, ¶ [0136]). Ellis et al does not does not explicitly disclose that "an encrypted credit card or debit card number is recorded along with the time and channel viewed". However, the Examiner takes Official Notice that it is notoriously well known in the art of audio/video distribution and purchasing systems to have the ability to send an encrypted credit or

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debit card account number along with a time and channel viewed for an order that is to be purchased through the system for the advantage of allowing a user to purchase audio or video data through by using an account or their own choice, and whereby the user's personal account information is protected for their own security through encryption methods for the advantage of preventing hackers or other individuals from stealing the user's personal account information. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have an encrypted credit card or debit card number recorded along with the time and channel viewed for the advantages given above.

As to claim 6, the Ellis et al reference discloses the method of claim 1 as described above. Ellis et al does not explicitly disclose that a method of transmission is determined by user preprogrammed instructions. However, the Examiner takes Official Notice that it is notoriously well known in the art of interactive video distribution systems to have the viewer enter preprogrammed instructions into their system or set-top box, for the advantages of allowing multiple users to access the system according to their own personal settings, and to provide parental control of the system, in addition to, providing the user with quick response time, since the user would not have to set up the method of transmission each time an order is placed by having the method already setup through activating their own identification number. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have the method of transmission determined by user preprogrammed instructions for the advantages given above.

As to claim 7, the Ellis et al reference discloses the method of claim 3 as described above. Ellis et al does not explicitly disclose that a method of transmission is determined by a

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user identification number. However, the Examiner takes Official Notice that it is notoriously well known in the art of interactive video distribution systems to have the viewer enter a personal identification number or PIN in order to have access to special settings or privileges, including a method of transmission for ordering a product or service such as audio or video data for the advantages of limiting access only to users who have paid for the service and further preventing hackers from using the system, or to allow for multiple users to access the system according to their own personal settings, and to provide parental control of the system, in addition to, providing the user with quick response time, since the user would not have to set up the method of transmission each time an order is placed by having the method already setup through activating their own identification number. Therefore, it is submitted that it would have been clearly obvious to one of ordinary skill in the art at the time of the invention to have the method of transmission determined by a user identification number for the advantages given above.

As to claim 21, the claim is rejected based on the same arguments made in the rejection of claim 6.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is **571-272-7346**. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at **571-272-7353**.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

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Some correspondence may be submitted electronically. See the Office's Internet Web site <http://www.uspto.gov> for additional information.

Or faxed to: 571-273-8300

Hand-delivered responses should be brought to the Customer Service Window at the address listed above.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **571-272-2600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Michael W. Hoyer
July 13, 2007


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER